IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 362 of 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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RAJNIKANT P SHAH - Appellant(s)
Versus
KUBERBHAI I CHAUHAN & 4 - Defendant(s)

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Appearance :
MR MC BHATT for Appellant(s) : 1,
MR RAJNI H MEHTA for Defendant(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 14/07/2006

ORAL JUDGMENT

1. By way of this appeal the appellant has challenged the judgement and award dated 08.03.1983 passed by the Motor Accident Claims Tribunal (Main) Ahmedabad (Rural) in M.A.C.P No. 422 of 1980 whereby the Tribunal has awarded Rs. 34,500/- by way of compensation to the appellant.

2. The short facts of the present case are that on 13.03.1980 at about 7.00 am there was a collision between oil tanker No. GTY 3858 and Jeep Car No. UPM 9551, as a result of which the original applicants who were sitting in the Jeep Car sustained injuries. Therefore the applicant filed the claim petition claiming Rs. 50,000/-. The Tribunal after hearing the parties passed the aforesaid award.

3. Mr. Raval, learned advocate for the appellant has submitted that the Tribunal has committed an error in granting compensation under the head of pain, shock and suffering and future loss of income. He has further submitted that the Tribunal has committed an error in not considering the fact that the appellant had suffered permanent disability of 39.82 per cent and thereby not calculating Rs. 250/- per month as future economic loss.

4. Heard learned counsel for the parties and

have gone through the documents placed on record including the award of the Tribunal. The Tribunal has relied on the medical certificate issued by the hospital being Ex. 51 and the evidence of Dr. Vora and has concluded that the appellant there is 40% disability which is just and proper.

4.1 However, looking to the fact that the annual income of the appellant was taken as 15,000/- by the Tribunal in para 29 of the award and considering the fact that the appellant is a partner with his brother and has suffered 40% disability, the Tribunal ought to have taken the future loss of income at Rs. 250/- per month which comes to Rs. 3000/- per year. The application of 15 years' multiplier seems to be reasonable looking to the age of the appellant. Therefore, the appellant ought to have been entitled to Rs. 45,000/-(Rs. 3000 x 15). Therefore, since the Tribunal has already awarded Rs. 34,500/- to the appellant, an additional

amount of Rs. 10,500/- is required to be paid to the appellant.

5. In the premises aforesaid, appeal is partly allowed. The appellant shall be entitled to an additional amount of ***Rs. 10,500/-*** It will be open for the appellant to recover ***10%*** of the total compensation from National Insurance Company as Oriental Insurance Company is not a party in this petition and to recover the remaining amount from Opponent No. 1 and 2. Award of the Tribunal is modified accordingly. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*